

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**PENNY LEWIS, individually and on behalf
of all others similarly situated,**

Plaintiff,

vs.

**MHM HEALTH PROFESSIONALS, LLC
f/k/a MHM HEALTH PROFESSIONALS,
INC. d/b/a CENTURION,**

Defendant.

Case No. 4:22-cv-00228-SEP

**DEFENDANT’S PARTIAL MOTION
TO DISMISS SECOND AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 12(b)(6) and for the reasons stated in its accompanying memorandum of law, Defendant MHM Health Professionals, LLC (“MHM”) respectfully moves to dismiss the following claims brought by Plaintiff Penny Lewis: (1) FLSA and Arizona state law¹ security screening claims, with prejudice, because such activities are not compensable work time as a matter of law; (2) *individual* FLSA and Arizona state law meal break claims for failing to allege facts supporting that MHM ever deducted from Plaintiff a 30-minute unpaid meal period for which it had actual or constructive knowledge that she had not taken; (3) FLSA collective and state law class meal break claims, with prejudice, because the facts alleged in the SAC demonstrate that Plaintiff is not “similarly situated” to other workers and that, under Rule 23(b)(3), individualized issues regarding liability would predominate over any common questions of fact or law; (4) FLSA collective meal break and security claims for non-Arizona workers, because Plaintiff fails to allege any facts supporting an inference that the alleged unlawful practices

¹ Defendant moves to dismiss Plaintiff’s Arizona Wage Act and unjust enrichment claims.

occurred outside of Arizona; and (5) Arizona Wage Act and Unjust Enrichment claims for overtime pay, with prejudice, because they are preempted by the FLSA. A Proposed Order is attached to this Motion.

Dated: July 29, 2022

/s/ Patricia J. Martin

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CERTIFICATE OF SERVICE

I hereby certify that, on this 29th day of July 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system to be served by operation of the Court's electronic filing system upon the following:

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